

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4064 of 1995

WITH

FA NOS.4065/95 TO 4067/95,

FA NOS.4070/95 TO 4079/95,

FA NOS.4081/95 TO 4093/95,

FA NO.4096/95,

FA NOS.4098/95 TO 4099/95,

FA NOS.4102/95 TO 4109/95.

Hon'ble MR.JUSTICE Y.B.BHATT

and

MR.JUSTICE C.K.BUCH

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

SPECIAL LAND ACQUISITION OFFICER

Versus

GADHIYA JAWANJI MOHANJI

Appearance:

MR SJ DAVE, AGP for Appellllants

NOTICE SERVED BY DS for Respondent

CORAM : MR.JUSTICE Y.B.BHATT and

MR.JUSTICE C.K.BUCH

Date of decision: 21/04/98

COMMON ORAL JUDGEMENT (Per Y.B. Bhatt J.)

1. This group of appeals has been filed by the State of Gujarat under section 54 of the Land Acquisition Act read with section 96, CPC, challenging the common

judgement and awards passed by the Reference Court under section 18 of the said Act.

2. Learned counsel for the appellants states that the respondents are absent though served. Under the circumstances we take up these matters for hearing on the request of learned counsel for the appellants.

3. The only point urged in the present group of appeals is as regards the determination of the market value of the acquired lands as found by the Reference Court.

4. The lands under acquisition were acquired for the Dharoi Irrigation Project by notification issued under section 4 of the said Act dated 3rd June 1971, and are situated in the village Mandaliyara in Danta Taluka, District Banaskanta.

5. The Land Acquisition Officer under his award under section 11 of the said Act awarded Rs.8154.10 per hectare for irrigated lands and Rs.5683.26 ps per hectare for non-irrigated lands.

6. The claimants not having accepted the award, preferred References under section 18 of the said Act. The Reference Court, after assessing the evidence on record, determined the market value at the rate of Rs.20000/- per hectare (Rs.200/- per are) for irrigated as also non-irrigated lands. It is this determination of market value which has been made the subject matter of the present appeals by the State.

7. As a result of the hearing and discussion, we are satisfied that the impugned judgement and awards do not merit any interference in these appeals. The impugned judgement, taken in its overall perspective, is, in our opinion, not assailable. We agree with the assessment of the evidence on the part of the Reference Court, the conclusions drawn therefrom and the findings of fact recorded.

8. However, we do not propose to dismiss these appeals merely on such findings.

9. We note that the Reference Court has referred to and relied upon the acquisition of lands from village Champalpur (for the same project), wherein the High Court had determined the market value as per judgement at Exh.180. This appears to be a decision of the Division Bench of this Court (Coram: C.V. Jani and S.D. Shah

JJ) in First Appeal 574/890 (group decided on 23rd November 1990). The market value determined by this court in the said decision was Rs.9000/- per acre (i.e. Rs.222.40 ps per are), in the context of section 4 notification dated 26th October 1972 i.e. about 16 months after the instant notification. Even if we allow approximately 10% increment for this lapse of 16 months, the market value would rise from Rs.200/- per are to Rs.222/- per are (as per the aforesaid decision). Similarly Exh.181 is another judgement of the Reference Court in respect of lands of Babsar village, which determined the market value at Rs.240/- per are.

10. However, this Bench has decided and determined the market value of lands in respect of village Babsar acquired for the very same purpose, in First Appeal Nos.1035/94 to 1039/94 by judgement and order dated 31st March 1998. The relevant notification in the said decision was dated 2nd August 1972, whereas in the instant case the relevant notification is 3rd June 1971. Thus, we find that the lands in the instant case, if valued at Rs.200/- per are on 3rd June 1971 would reasonably appreciate to Rs.240/- per are by August 1972.

11. We hasten to add that it is common ground and conceded by the learned counsel for the appellants that in the various decisions referred to in the present judgement, the lands of the various villages are of similar quality and fertility, and that the fact that they are all situate within a radius of 10 to 12 kilometers would not affect the market value of the lands. The only variation in the market value would therefore be on account of the difference in the dates of notification under section 4.

12. Even otherwise, this Bench has also decided the market value of acquired lands situated in village Vijalasana in First Appeal Nos.3186/95 to 3390/95 wherein the section 4 notification was dated 12th August 1971. This Bench had dismissed the State appeals by judgement and order dated 2nd April 1998 confirming the market value of both irrigated and non-irrigated lands at Rs.200/- per are. It can be seen that the notification in respect of village Vijalasana is only two months subsequent to the notification in the instant case pertaining to village Mandaliyara. This time lag being insignificant and other factors being equal as already discussed hereinabove we find that the determination of market value by the Reference Court in the instant case is amply justified, and cannot be reduced.

13. We further refer to another decision of this very Bench in respect of acquisition of lands from the village Jorapura, which were acquired for the very same project under notification dated 22nd July 1971 (partly amended on 13th April 1973). This decision was rendered by us in First Appeal Nos.4114/95 to 4179/95 by judgement and order dated 13th April 1998, wherein the appeals filed by the State were dismissed, and the awards of the Reference Court determining the market value of the lands in village Jorapura at Rs.200/- per are was confirmed. Here also, all other factors being equal, and the notifications under section 4 being within a month and half of each other, we find that the valuation arrived at by the Reference Court in respect of the lands of village Mandaliyara at Rs.200/- per are is even otherwise justified and is required to be sustained.

14. No other contentions have been raised.

15. As a result therefore, these appeals require to be dismissed and are accordingly dismissed with no order as to costs.
